

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3320 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

- =====
1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

KOLI BHUPATBHAI G

Versus

BATUKBHAI L ADHEDA

Appearance:

MR NAGIN N GANDHI for Petitioner

None present for Respondent No. 1, 2, 3, 4, 5

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 25/02/2000

ORAL JUDGEMENT

Heard the learned counsel for the petitioner.

2. Challenge has been made in this special civil application to the order dated 25th May, 1988 of the Motor Accident Claims Tribunal, (Main) Bhavnagar below

Ex. 16 in the Motor Accidents Claims Petition No. 42 of 1987.

3. Ex.16 is the application filed by the claimants for attachment before judgment the truck NO. GTH 7073, which is allegedly involved in the accident. The insurance company is not party to the petition and it has come out that the truck was not insured. This application was contested by the owner. Learned tribunal has ordered for attachment of this truck before judgment and this order has been challenged in this special civil application.

4. To see that the claimants get the amount of compensation awarded in the motor accidents claim case, the Tribunal can pass just and reasonable order to secure payment of the amount of compensation. In the case where the offending vehicles are not insured, it is more necessary to take all care and caution that the award which is finally passed may not be only a paper award. It is not unknown that it is very very difficult for the claimants to recover the amount of compensation awarded in the motor vehicle accidents claims cases from the owner or the driver in the cases where the vehicles are not insured. In this case also, the vehicle is not insured as per the case of the claimants and if ultimately the award is passed it may be difficult for the claimants for recovery of the same more so there is all possibility that before that stage reaches, the owner of the vehicle may make the truck of scrap value. Learned Tribunal has passed a just and reasonable and equitable order and it is in the larger interest of the claimants and further to give effect to this beneficial and socio-economic legislation. Learned Tribunal has not committed any error of jurisdiction in passing of the impugned order nor this order can be said to be a perverse order. Otherwise also, I fail to see what prejudice will be caused to the petitioner in case this order is allowed to stand. Only the vehicle has been attached, meaning thereby, this order will not in any way adversely affect the right of the petitioner to make use of this vehicle.

5. In the result, this special civil application fails and the same is dismissed. Rule discharged. Interim relief, if any, granted by this court stands vacated. However, as claimants have not put appearance, no order as to costs.

zgs/-